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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 10/634,766 | 08/06/2003 | Vincent Muniere | Q76546 | 6869 |
| 23373 7590 06/17/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | | |
| EXAMINER AFSHAR, KAMRAN | | | | |
| ART UNIT 2617 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/634,766

Applicant(s)

MUNIERE, VINCENT

Examiner

KAMRAN AFSHAR

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06/05/2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 06/05/2009. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kamran Afshar/
Primary Examiner, Art Unit 2617

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed on 06/05/2009 AND 08/27/2008 have been fully considered but they are not persuasive.

In response to applicant's argument filed on 06/05/2009 which is substantially the same as argument filed on 08/27/2008 that the references fail to show certain features of applicant's invention i.e. a mobile station uses (See Landais e.g. MS communicating via the network as shown in Fig. 1), in accordance with its requirements, one of different types of packet mode resource requests corresponding to different transfer modes (See Landais e.g. differing requirements, mobile station, EGPRS, Page 2, [0029]) that the mobile station supports, the different transfer modes (See Landais e.g. two modes, etc., Page 2, [0032]) including the GPRS and the EGPRS modes.

In contrast to Applicant assertion, Examiner very kindly directs the Applicant that Landais teaches frankly teaches the mobile station uses, in accordance with its requirements, one of different types of packet mode resource requests corresponding to different transfer modes that the mobile station supports, said different transfer modes including the GPRS (See Landais e.g. GPRS, Page 1, [0002]) and the EGPRS modes (See Landais e.g. EGPRS, Page 2, [0029]). Further, the mobile station (See Landais e.g. MS of Fig. 1) using a type of packet set mode resource request (See Landais e.g. packet resource request containing a precise description of the required resource, Page 2, [0026]) and or in downlink direction (See Landais e.g. downlink, Page 1, [0025]) corresponding to EGPRS mode (Page 2, GPRS, [0029], packet mode, two modes, Page 2, , including cause data specifying signaling data transfer requirements (See Landais e.g. per definition: signaling, mobility management, Page 1, [0018], one-phase or two-phase access, Page 1, [0023]). Basically, as discussed above, the MS support both mode of data transfer (i.e. GPRS and EGPRS) and clearly specifies via packet resource request containing a precise description of the required resource, Page 2, [0026] which is including the cause or reason i.e. signaling and or the mobility management as defined by the dependent claim and the specification. Further more, Landais teaches signal message (inherently) include a paging response (See e.g. the mobile station sends the network a PACKET CHANNEL REQUEST message, as noted at 1, on a common uplink channel (PRACH). The network then responds with a PACKET UPLINK ASSIGNMENT message, as noted at 2, on a common downlink channel (PAGCH or paging), the latter message indicating directly to the mobile station the resources (PDCH) it has been assigned. The mobile station then uses those resources to transmit data (or RLC data blocks), as noted at 3, in the uplink direction, Page 4, [0077]). Further, contrary to Applicant assertion the Landais does not teach or suggest the EGPRS PACKET CHANNEL REQUEST). Examiner very kindly directs the Applicant to [0024], the mobile station, the latter sends the network a PACKET CHANNEL REQUEST message on an uplink packet random access channel (PRACH) or a CHANNEL REQUEST message on a common uplink random access channel (RACH) and [0029], the mobile station to support the enhanced general packet radio service (EGPRS).

Applicant(s) are reminded that the Examiner is entitled to give the broadest reasonable interpretation to the language of the claim. The Examiner is not limited to Applicant's definition, which is not specifically set forth in the claims, In re Tanaka et al., 193 USPQ 139, (CCPA) 1977. Therefore, the previous rejection is maintained..